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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) NO. CR 18-0310 EMC
)
Plaintiff,)
)
v.) UNITED STATES' OPPOSITION TO
) DEFENDANT'S MOTION TO CONTINUE
LAWRENCE J. GERRANS,) SENTENCING DATE AND/OR MOTION TO
) STRIKE MATERIAL FROM PSR
)
Defendant.)
) Sentencing Date: October 7, 2020
) Honorable Edward M. Chen

The United States submits this response to the defendant's ex parte motion to strike or to continue the sentencing hearing, filed yesterday, September 24, 2020. The motion to continue the sentencing should be rejected out of hand, because the defendant does not present a justification for another prolonged continuance of the hearing. Similarly, the motion to strike information from the Presentence Report is not well taken because the victim letters were timely disclosed, and in any event this objection to the PSR can be considered at the sentencing hearing along with the defendant's numerous other unresolved objections to the PSR.

Defendant Lawrence Gerrans was convicted at trial of all 12 counts in the second superseding

1 indictment on January 29, 2020. On March 20, 2020, attorney Shawn Halbert substituted into this case
2 as counsel for the defendant. Since that substitution, the defendant has moved five times to continue the
3 sentencing date. Now with sentencing set for October 7, 2020 (at the defendant's request), and with the
4 final PSR prepared and distributed, he moves to continue the sentencing yet again. The United States
5 objects to defendant's sixth motion to continue the sentencing for the reasons discussed below.

6 The materials in question—three short letters from individual victim investors; a four-page letter
7 written on behalf of Sanovas, the corporate victim; and a declaration prepared by the three former
8 Sanovas board members who testified at trial—were provided to defense counsel on September 22nd, 15
9 days before the scheduled sentencing and more than a week before the parties' sentencing memoranda
10 are due. These victim-witness letters were timely produced based upon the local rules governing the
11 disclosure of victim-witness letters for sentencing. As the Court is aware, victims often submit letters up
12 to the day of sentencing, or describe the impact of the defendant's conduct at the hearing itself, and the
13 sentencing still goes forward. Moreover, there is only one victim letter, the letter from the corporate
14 victim, that defendant now complains warrants a continuance of the sentencing. According to Ms.
15 Halbert's supplemental declaration, Dkt 294, counsel was able to discuss this letter with the defendant
16 during a call with him on September 25, 2020.

17 The defendant has already raised at least fifteen objections to material referred to by the
18 Probation Officer in the PSR, and the PSR already addresses at least seven of these objections. If the
19 defendant wishes to object to the Sanovas victim letter being referenced in the PSR, defendant has the
20 opportunity to object to this portion of the PSR in his sentencing memorandum. The defendant will
21 have ample opportunity prior to and at the hearing to object to this and other aspects of the PSR, and the
22 Court will have the ability to rule on these objections at the sentencing hearing.

23 The letter submitted on behalf of Sanovas as a victim of the charged offenses describes the harm
24 to the company by defendant Gerrans—hardly a surprising or atypical submission. The government
25 treated this letter as a victim submission, and disclosed the letter with other investor victim letters to the
26 Probation Office and defense counsel prior to the sentencing hearing, and in this case prior to the
27 issuance of the final PSR.

28 The defendant objects to the submission from the former board members on the basis that it

1 requests restitution for costs associated with the criminal investigation. To the extent that the letter
2 raises a dispute about the appropriate amount of restitution, that issue does not need to be decided at the
3 sentencing hearing, and if there are issues, they can be addressed in a subsequent hearing pursuant to 18
4 U.S.C. § 3664(d)(5). Thus, the sole basis for the requested continuance—a four-page victim letter
5 which was provided to the defendant 15 days prior to sentencing—is not sufficient justification to upend
6 the current sentencing date. The U.S. Marshall has gone to great lengths to ensure that the defendant
7 will be personally present on October 7, 2020. The victims and the government have been
8 inconvenienced with multiple sentencing continuances over the long course of this case. There is no
9 legitimate reason to put the Court, the victims, the government and the U.S. Marshal Service through yet
10 another delay.

11 DATED: September 25, 2020

Respectfully submitted,

12 DAVID L. ANDERSON
13 United States Attorney

14 _____/s/_____
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16 LLOYD FARNHAM
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